Appl. No.   :   10/065,120
Filed   :   September 18, 2002

REMARKS

Reconsideration and allowance of the above referenced application are respectfully requested.

Claims 3 and 28-35 are cancelled to obviate the rejections thereto.

Claims 1-7, 9-15, 17-20, 22-31 and 35 stand rejected under 35 U.S.C. 103 as allegedly being unpatentable over Lemelson in view of Seiple.

It is well-established that any hypothetical combination or modification of a reference that prevents the reference from working for its intended purpose, or even makes it work less effectively for its intended purpose, is an improper combination or modification of that reference.

It is respectfully suggested that the combination is not proper for rejection of claims like claim 1, since Seiple has precisely the opposite intent to that claimed. Therefore, one having ordinary skill in the art would not make the combination in the way suggested by the official action. Making the combination in the way postulated by the official action would require using Seiple's teaching as standing for preventing position information from being obtained (for privacy, in some claims). In fact, Seiple is an emergency device which must be able to obtain its position quickly at all times. The rejection requires interpreting Seiple in a way that is abhorrent to Seiple's actual intent and actual application. As previously described, Seiple has the objective to save power in an emergency device. Seiple certainly does not actively prevent the GPS information from being obtained. In fact, any operation of Seiple that would prevent the information from being obtained would destroy Seiple's inherent functionality. Seiple teaches that

-11-

Appl. No.   :   10/065,120
Filed   :   September 18, 2002

the system is used in an emergency when someone falls overboard from a ship – It

only stands to reason that Seiple must be usable at all times. Seiple must get as much

GPS information as he can, keeping in mind the objective to save power. At all times,

Seiple must be able to quickly get its position.

This is the exact opposite of claim 1, that recites preventing "said position

detection module from determining its position", Seiple would not prevent that module

from obtaining its position. Seiple must have the position, so that it is usable in an

emergency. Any attempt to modify Seiple in a way that prevents it from obtaining its

position would destroy its inherent functionality. Certainly one having ordinary skill in

the art would be taught the other way by Seiple - they would be taught to obtain as

much information as they could, not to prevent determining its position.

The rejection states, in item 8, that Seiple discloses placing the device into a

sleep mode between the times when a position fix is needed. However, Seiple still

obtains the position, and must inherently have some position information or it could not

be used as an emergency device. Putting the device to sleep between the times when

the position fix is needed cannot rationally be considered to be 'preventing the device

from determining its position'. Seiple's teaching is that the device must always have

position information. However, the device can go to sleep in between the times when it

needs to obtain that position.

Analogously, any modification of Seiple for "position privacy control", e.g., as in

claim 9, would be nonsensical. Seiple MUST have current position information

according to his teaching.

-12-

Appl. No.   :   10/065,120
Filed   :   September 18, 2002

Any attempt to use Seiple in a way that prevents it from determining its position, as claimed, would destroy the functionality of Seiple, and therefore would be an improper combination and an improper modification of Seiple.

Moreover, even if Lemelson in view of Seiple were somehow combined, the teachings of the claims like claim 1 still would not be obtained. Claim 1, for example, defines preventing the position detection module from determining its position. Lemelson does not teach or suggest this feature. Lemelson teaches using GPS to track an object, for example when it has been stolen. Security for the GPS may require a pin. Moreover, that pin must be capable of being entered remotely. The person who stole the item would certainly not be expected to cooperate in entering the pin. Any attempted modification so that position detection could be overridden would certainly destroy the intended functionality of Lemelson. Turning off the position tracking would prevent Lemelson from being used to track stolen objects. The Lemelson system must be able to track its location, or it would not be able to be used for locating objects.

Even assuming that a hypothetical combination remains, it would provide a Lemelson type system along with Seiple's teaching to save power by turning off the circuitry between the times that are necessary to obtain a fix. This device would still determine its position, it might turn off certain circuitry between determining positions, and it might have a power saving inhibiting function, but it would not teach a signal state that "prevents said position detection module from determining its position but which allows other parts of said electronic device to operate" as claimed. Therefore, claim 1 should be allowable for these reasons.

Claim 3 is canceled herein, and claim 4 is amended into independent form. As amended, claim 4 specifies testing the cellular phone while in the privacy enhanced

-13-

Appl. No.   :   **10/065,120**
Filed   :   **September 18, 2002**

mode. There is no teaching or suggestion of such testing in Lemelson in view of Seiple. The testing using a network service of claim 5 is not taught in this hypothetical combination. The testing by updating software of claim 6 is not taught by this hypothetical combination. Therefore, these claims should be allowable on their own merits.

Claim 9 requires a single button that is pressed to activate the position privacy control. The rejection states, without any evidence to support this contention, that "it would have been obvious to one having ordinary skill in the art to utilize a single dedicated button in view of the teachings of Lemelson, who clearly suggests entry of an inhibiting number via the keyboard"... First of all, nothing in Lemelson or Lemelson in view of Seiple teaches that this system is used for position privacy control. Column 4, for example lines 60-65, teach that Lemelson is used for security, not for privacy. Seiple teaches emergency use, and never teaches privacy.

When used for security, of course a PIN needs to be used. However, this is a relatively complicated number that needs to be entered – certainly much more complicated than the simple button press as claimed. Claim 9 specifies a single button which is pressed to activate a position privacy control. A single button would not be usable in Lemelson; Lemelson intends for the device to be secured. A single button would have no security whatsoever. Therefore, any attempt to modify Lemelson to use a single button as claimed, would go against the teaching in Lemelson of obtaining security using personal identification numbers, see column 4 lines 48-56. Therefore, claim 9 is completely allowable over Lemelson in view of Seiple.

-14-

Appl. No.   :   10/065,120
Filed   :   September 18, 2002

Claim 10 specifies that the device is a portable telephone, not taught or suggested by Lemelson in view of Seiple. Moreover, claim 10 specifies the single press, again which is quite different from the subject matter of Lemelson.

Claim 11, which specifies preventing the position detection module from determining its position, should be allowable for reasons discussed above with respect to claim 1.

Claim 20 specifies a manual button that is pressed once to enhance security. Nowhere is there any teaching or suggestion of this in Lemelson in view of Seiple. Lemelson requires some kind of security code, not a single button press. Claim 22 should be allowable for reasons discussed above with respect to claim 1.

Claims 1-7, 9-15, 17-20, 22-31 and 35 stand rejected as allegedly being unpatentable over Zellner. The rejection alleges that Zellner teaches disabling the location system. However, this flies in the face of Zellner's disclosure column 7 lines 30-48. This cited section specifies that the processor "removes the location information" see column 7, lines 35-36, and 39-40. In order to "remove" the location, it stands to reason that the location must have been produced in the first place. Since Zellner clearly teaches that the information is removed, not prevented from being determined, each of the claims which specify preventing the device from determining the position, should be allowable. Hence, claims 1, 11 and 22 should be allowable for these reasons. Nothing in Zellner teaches anything about the testing of claim 4, and therefore, claim 4 is additionally allowable along with claims 5-7 which depend therefrom.

Claim 9 specifies that the override control is a single button that is pressed to activate position privacy control. The top of column 6, for example column 6 lines 1-18

-15-

Appl. No.   :   10/065,120
Filed   :   September 18, 2002

explain that location blocking could be done by a key sequence such as star 82, a graphical user interface, or the like. All of these are much more complicated than the single button required by claims 9, 10 and 20. The complicated key sequence of Zellner would make it more difficult to use Zellner for privacy enhancement.

The statement that Zellner could respond to a yes and no prompt to activate or deactivate the block condition ignores the specific words of the claims. Claim 9, for example, requires "a single button which is pressed to activate a position privacy control". A yes or no prompt is not a single button that is pressed to activate privacy, as claimed. Claims 10 and 20 analogously require a single button press to activate the privacy mode. This is not taught or suggested by Zellner. Zellner does not teach a single button operation as claimed – and with all due respect, the attempt to find this in the prior art is an attempt at hindsight reconstruction.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Therefore, for reasons stated above, it is respectfully suggested that all of the claim should be in condition for allowance. A formal notice to that effect is respectfully solicited.
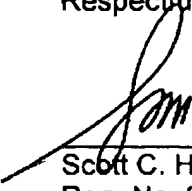
-16-

Appl. No.   :   **10/065,120**
Filed   :   **September 18, 2002**

Please charge any fees due in connection with this response to Deposit Account

No. 50-1387.

Respectfully submitted,

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-17-